

No. C7/ 39807/2006/CT

Office of the Commissioner  
Department of Commercial Taxes,  
Thiruvananthapuram.  
4-12-2006.

**CIRCULAR No.46/2006**

Sub: KVAT Act, 2003 - Assessment of footwear -  
instructions-issued-reg.

Under KVAT Act, 2003 footwear are liable to be taxed at two rates:

- Under Entry 87 of the Third Schedule 'Moulded plastic footwear, Hawaii Chappals and its parts' specifically mentioned therein are taxable at 4%.
- By Entry 43 of SRO 82/06, footwear of all kinds excluding plastic footwear and hawai chappals and its parts are taxable at 12.5%.

But by the amendments made as per the Kerala Finance Act, 2006 Entry 87 of the Third Schedule has been amended to read "footwear of all kind whose MRP does not exceed Rs.200 and whose MRP is embossed on the sole of the footwear", which alone are taxable at 4% from 1/7/2006.

It is brought to the notice that the Entry 87 of the Third Schedule has been misinterpreted and some dealers are paying tax at 4% on footwear which are not covered under the said Entry. Entry 87 of the Third Schedule is unambiguous and the intention is clear from the heading and item description which covers only moulded plastic foot wear and hawai chappals. When a specific commodity is mentioned against an HSN code for the purpose of taxation, only that specific commodity will lie in such Entry even though by general classification other commodities may also come under the said HSN code. So the emphasis is on the commodity and the HSN code is meant for its confirmation.

HSN code 6402 covers "footwear with outer soles and uppers of rubber or plastics". So footwear with a combination of rubber and plastic/ plastic in any other form will not cover the specific Entry. In this context plastic has to be interpreted

as in common parlance or commercial parlance since the intention is to cover only 'moulded plastic and hawai chappals'.

Further, Entry 43(4) of SRO 82/2006 covers all footwear other than those mentioned in the said Entry or in any other Schedules. This Entry is wide enough to cover all footwear which is not specifically mentioned under Entry 87 of Third Schedule. Since Entry 87 is confined only to 'moulded plastic foot wear and hawai chappals and its parts' only, it is clear that no other footwear, including those with combination of 'rubber and plastic like "PVC coated synthetic upper and rubber sole or so"' will be covered under the said Entry taxable at 4%.

So all assessing authorities shall bear in mind the above statutory position while finalizing assessments in respect of footwear.

Commissioner.